

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	<b>Case No. 13-04017-01/04-CR-C-BP</b>
	)	<b>Count 1:</b>
Plaintiff,	)	18 U.S.C. § 371
	)	NMT 5 years and/or \$250,000
v.	)	Supervised Release: NMT 3 years
	)	Class D Felony
<b>ARKADIY LVOVSKIY,</b>	)	
[DOB: 6/5/1961]	)	<b>Counts 2-3:</b>
	)	16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B);
<b>DMITRI ELITCHEV,</b>	)	18 U.S.C. § 2
[DOB: 3/29/1966 ]	)	NMT 5 years and/or \$250,000
	)	Supervised Release: NMT 3 years
<b>ARTOUR MAGDESSIAN,</b>	)	Class D Felony
[DOB: 11/21/1966]	)	
	)	<b><u>Forfeiture Allegations:</u></b>
<b>FELIX BARAVIK,</b>	)	16 U.S.C. § 3374
[DOB: 1/31/1965]	)	
	)	\$100 mandatory penalty assessment, Counts 1-3
Defendants.	)	

**INDICTMENT**

THE GRAND JURY CHARGES THAT:

**COUNT 1**  
**Conspiracy**  
**(18 U.S.C. § 371)**

**INTRODUCTORY ALLEGATIONS**

At all times relevant to this Indictment:

1. Defendant ARKADIY LVOVSKIY (hereinafter “LVOVSKIY”) was a United States Citizen and Colorado resident, residing in or near Aurora, Colorado.
2. Defendant DIMITRI ELITCHEV (hereinafter “ELITCHEV”) was a United States Citizen and Colorado resident, residing in or near Centennial, Colorado.

3. Defendant ARTOUR MAGDESSIAN (hereinafter “MAGDESSIAN”) was a United States Citizen and Colorado resident, residing in or near Lone Tree, Colorado.

4. Defendant FELIX BARAVIK (hereinafter “BARAVIK”) was a Citizen of Belarus and Permanent Resident of the United States, residing in or near Aurora, Colorado.

5. Unindicted co-conspirator A.P. was a United States Citizen, residing in or near Erie, Colorado.

#### Relevant Laws and Regulations

6. The American paddlefish (*Polydon spathula*), also called the Mississippi paddlefish or the spoonbill (hereinafter “paddlefish”), is a freshwater fish that is primarily found in the Mississippi River drainage system. Paddlefish eggs are marketed as caviar. Paddlefish were once common in waters throughout the Midwest. However, the global decline in other caviar sources, such as sturgeon, has led to an increased demand for paddlefish caviar. This increased demand has led to over-fishing of paddlefish, and consequent decline of the paddlefish population.

7. Missouri law prohibits the taking, possession, purchase, sale, or import, of any wild animal, including paddlefish and paddlefish eggs, except as authorized by law. 3 CSR 10-4.110.

8. Missouri law provides that no person may take more than two paddlefish per day. 3 CSR 10-6.525(1). “Take” means, among other things, to kill or capture in any manner. 3 CSR 10-20.805(53).

9. Missouri law provides that no person may possess more than four paddlefish at any time. 3 CSR 10-6.405(3)(F).

10. Missouri law requires that a person must acquire a valid Roe Fish Dealer Permit before that person may legally buy or possess paddlefish, for the purpose of processing, transporting, shipping, or selling them. 3 CSR 10-10.728.

11. Missouri law prohibits the transportation of paddlefish eggs which have been removed or extracted from a paddlefish carcass. 3 CSR 2-6.525(5).

12. Missouri law prohibits the sale or purchase, or offer of sale or purchase, of paddlefish eggs. 3 CSR 10-6.525(5).

13. Missouri law provides that persons possessing paddlefish or paddlefish eggs that were taken by another person shall plainly label the paddlefish, or paddlefish eggs, in a way that identifies the species and provides the full name, address, and permit number of the taker and the date taken. 3 CSR 10-4.136, 3 CSR 10-4.137.

14. The Lacey Act makes it unlawful for any person to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish that was taken, possessed, transported, or sold in violation of any law or regulation of any State. 16 U.S.C. § 3372(a)(2)(A).

15. On or about and between April 19, 2011, and April 20, 2012, those dates being approximate and inclusive, in the Western District of Missouri and elsewhere, Defendants ARKADIY LVOVSKIY, DMITRI ELITCHEV, ARTOUR MAGDESSIAN, and FELIX BARAVIK, and others both known and unknown to the Grand Jury, did knowingly combine, conspire, confederate and agree with each other to commit an offense against the United States, namely:

16. Objective of the Conspiracy: To knowingly engage in conduct involving the sale and purchase, offer to sell and purchase, and intent to sell and purchase fish having a market value

exceeding \$350, to wit: paddlefish and paddlefish eggs (*Polydon spathula*), by knowingly transporting said fish in interstate commerce, knowing that said fish was possessed and sold in violation of, and in a manner unlawful under, Missouri state law and regulation, specifically 3 CSR 10-4.110, 10-6.405(3)(F), 3 CSR 10-4.136, 3 CSR 10-4.137, 3 CSR 10-6.525, and 3 CSR 10-10.728. Such conduct is prohibited by the Lacey Act, at Title 16, United States Code, Sections 3372(a)(2)(A), 3373(d)(1)(B).

**I. THE MEANS AND METHODS USED BY THE CONSPIRATORS TO ACHIEVE THE OBJECTIVE OF THE CONSPIRACY**

In order to achieve the objectives of the conspiracy:

17. Defendants LVOVSKIY, ELITCHEV, MAGDESSIAN, and BARAVIK, and unindicted co-conspirator A.P., purchased paddlefish and paddlefish eggs in the Western District of Missouri. Neither Defendants LVOVSKIY, ELITCHEV, MAGDESSIAN, nor BARAVIK had a valid Roe Fish Dealer Permit. The paddlefish and paddlefish eggs were not labeled in a way that identified the person that harvested and sold them.

18. Defendants LVOVSKIY, ELITCHEV, MAGDESSIAN, and BARAVIK harvested and possessed paddlefish in the Western District of Missouri, in excess of Missouri's legal limit.

19. Defendants LVOVSKIY, ELITCHEV, MAGDESSIAN, and BARAVIK processed female paddlefish by removing the paddlefish eggs from the carcasses, and then transported the paddlefish and paddlefish eggs in interstate commerce.

**II. OVERT ACTS**

20. In furtherance of the conspiracy, and in order to effect its objective, Defendants LVOVSKIY, ELITCHEV, MAGDESSIAN, and BARAVIK, and others both known and unknown to the Grand Jury, committed, and caused to be committed, the following overt acts in the Western District of Missouri and elsewhere.

Overt Act One – On or about April 18, 2011, Defendants LVOVSKIY and ELITCHEV, offered to buy female paddlefish from R.B in Warsaw, Missouri.

Overt Act Two – On or about April 18, 2011, unindicted co-conspirator A.P. offered to buy three female paddlefish from J.B. in Warsaw, Missouri.

Overt Act Three – On or about April 19, 2011, unindicted co-conspirator A.P. agreed to buy three female paddlefish from J.B. in Warsaw, Missouri, for \$150 each.

Overt Act Four – On or about April 19, 2011, Defendants LVOVSKIY and ELITCHEV, and unindicted co-conspirator A.P., jointly purchased three female paddlefish from “Mike” for \$400.

Overt Act Five – On or about April 20, 2011, Defendants LVOVSKIY and ELITCHEV, and unindicted co-conspirator A.P., went fishing for paddlefish with M.W. During that fishing trip, Defendant ELITCHEV and unindicted co-conspirator A.P. repeatedly asked M.W. if they could buy female paddlefish from him.

Overt Act Six – On or about April 21, 2011, Defendant ELITCHEV told M.W. that he wanted to buy female paddlefish. Defendant ELITCHEV and M.W. agreed to pay M.W. \$200 for two female paddlefish in Warsaw, Missouri. During that transaction, Defendant ELITCHEV told M.W. that he might be interested in purchasing additional female paddlefish.

Overt Act Seven – On or about April 30, 2011, Defendant ELITCHEV bought raw paddlefish eggs from J.B. for \$50 in Warsaw, Missouri. Defendant ELITCHEV stated that he would be in contact during the 2012 paddlefish season to discuss future purchases.

Overt Act Eight – On or about March 26, 2012, Defendant ELITCHEV approached R.B. about renting a boat to fish for paddlefish. Defendant ELITCHEV indicated that he and Defendant LVOVSKIY intended to catch and purchase paddlefish in 2012.

Overt Act Nine – On or about March 27, 2012, Defendant ELITCHEV purchased four female paddlefish from M.W. and R.B for \$500 in Warsaw, Missouri.

Overt Act Ten – On or about March 28, 2012, Defendants ELITCHEV and LVOVSKIY purchased four female paddlefish from M.W. and R.B. for \$500 in Warsaw, Missouri.

Overt Act Eleven – On or about March 28, 2012, Defendants ELITCHEV and LVOVSKIY transported the four female paddlefish that they purchased from M.W. and R.B. to another location in Warsaw, Missouri, and processed the paddlefish by removing the eggs from the carcass.

Overt Act Twelve – On or about March 29, 2012, Defendants ELITCHEV and LVOVSKIY transported the eggs from the paddlefish that they purchased on March 26-28, 2012, from Warsaw, Missouri, to Aurora, Colorado. During the trip, Defendants ELITCHEV and LVOVSKIY engaged in acts to defeat surveillance.

Overt Act Thirteen – On or about April 16, 2012, Defendants LVOVSKIY, MAGDESSIAN, and BARAVIK met with “Chris” and “Earl” who had their own boat which they were using to fish for paddlefish. Defendant LVOVSKIY exchanged telephone numbers with “Chris,” and Defendant BARAVIK told “Chris” and “Earl” that they should call if they caught a paddlefish.

Overt Act Fourteen – On or about April 17, 2012, “Chris” contacted Defendants ELITCHEV and LVOVSKIY about selling a female paddlefish that he had caught. Defendants ELITCHEV and LVOVSKIY met with “Chris” and removed the eggs from the carcass of “Chris” paddlefish. Defendant LVOVSKIY offered “Chris” \$50 for the eggs. When “Chris” accepted, Defendant MAGDESSIAN paid “Chris” \$50 for the eggs.

Overt Act Fifteen – On or about April 17, 2012, “Chris” and “Earl” contacted Defendant LVOVSKIY about a second female paddlefish that “Earl” had caught. Defendant ELITCHEV processed the second female paddlefish by removing the eggs from the carcass. After the paddlefish eggs were processed, Defendant MAGDESSIAN purchased the eggs from “Earl” for \$30.

Overt Act Sixteen – On or about April 18, 2012, Defendants MAGDESSIAN and BARAVIK went fishing for paddlefish with “Chris” and “Earl.” During the fishing trip, Defendants MAGDESSIAN and BARAVIK harvested seven paddlefish.

Overt Act Seventeen – On or about April 18, 2012, Defendants LVOVSKIY and ELITCHEV purchased three female paddlefish from R.B. for \$375 in Warsaw, Missouri. During the transaction, Defendant ELITCHEV told R.B. that he would like to purchase more paddlefish.

Overt Act Eighteen – On or about April 18, 2012, Defendants LVOVSKIY and ELITCHEV transported the three female paddlefish they purchased from R.B. to another location in Warsaw, Missouri, and processed the paddlefish by removing the eggs from the carcass.

Overt Act Nineteen – On or about April 19, 2012, Defendants LVOVSKIY, ELITCHEV, MAGDESSIAN, and BARAVIK went fishing and harvested four female paddlefish. After harvesting the paddlefish, Defendants LVOVSKIY, ELITCHEV, MAGDESSIAN, and BARAVIK processed the paddlefish by removing the eggs from the carcasses.

Overt Act Twenty – On or about April 20, 2012, Defendants LVOVSKIY, ELITCHEV, MAGDESSIAN, and BARAVIK loaded paddlefish eggs from the paddlefish that they purchased and harvested on April 18, 2012, and April 19, 2012, into two separate automobiles and

transported the paddlefish eggs from Warsaw, Missouri, to the residences of Defendants LVOVSKIY, ELITCHEV, MAGDESSIAN, and BARAVIK in Colorado.

All in violation of Title 18, United States Code, Section 371.

**COUNT 2**  
**Lacey Act Trafficking**  
**(16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B); 18 U.S.C. § 2)**

21. The information contained in paragraphs 1 through 14 of this Indictment are re-alleged and incorporated herein.

22. On or about and between March 26, 2012, and March 29, 2012, those dates being approximate and inclusive, in the Western District of Missouri and elsewhere, Defendants ARKADIY LVOVSKIY and DMITRI ELITCHEV, knowingly engaged in conduct involving the sale and purchase, offer to sell and purchase, and intent to sell and purchase fish having a market value in excess of \$350, to wit: paddlefish and paddlefish eggs (*Polydon spathula*), by transporting, and causing to be transported, said fish in interstate commerce, knowing said fish was possessed and sold in violation of, and in a manner unlawful under, Missouri state law and regulation, specifically 3 CSR 10-4.110, 10-6.405(3)(F), 3 CSR 10-4.136, 3 CSR 10-4.137, 3 CSR 10-6.525, and 3 CSR 10-10.728.

All in violation of Title 16, United States Code, Sections 3372(a)(2)(A), 3373(d)(1)(B); and Title 18, United States Code, Section 2.

**COUNT 3**  
**Lacey Act Trafficking**  
**(16 U.S.C. §§ 3372(a)(2)(A), 3373(d)(1)(B); 18 U.S.C. § 2)**

23. The information contained in paragraphs 1 through 14 of this Indictment are re-alleged and incorporated herein.

24. On or about and between April 18, 2012, and April 20, 2012, those dates being

approximate and inclusive, in the Western District of Missouri and elsewhere, Defendants ARKADIY LVOVSKIY, DMITRI ELITCHEV, ARTOUR MAGDESSIAN, and FELIX BARAVIK, knowingly engaged in conduct involving the sale and purchase, offer to sell and purchase, and intent to sell and purchase fish having a market value in excess of \$350, to wit: paddlefish and paddlefish eggs (*Polydon spathula*), by transporting, and causing to be transported, said fish in interstate commerce, knowing said fish was possessed and sold in violation of, and in a manner unlawful under, Missouri state law and regulation, specifically 3 CSR 10-4.110, 10-6.405(3)(F), 3 CSR 10-4.136, 3 CSR 10-4.137, 3 CSR 10-6.525, and 3 CSR 10-10.728.

All in violation of Title 16, United States Code, Sections 3372(a)(2)(A), 3373(d)(1)(B); and Title 18, United States Code, Section 2.

**FORFEITURE ALLEGATION**  
**16 U.S.C. § 3374(a)**

1. Upon conviction of the offense alleged in Count Two Defendants ARKADIY LVOVSKIY and DMITRI ELITCHEV shall forfeit to the United States pursuant to 16 U.S.C. §3374(a)(1) approximately thirteen female paddlefish, including all of the eggs from those female paddlefish.

2. Upon conviction of the offense alleged in Count Two, Defendants ARKADIY LVOVSKIY and DMITRI ELITCHEV shall forfeit to the United States pursuant to 16 U.S.C. § 3374(a)(2), all vessels, vehicles, and other equipment used to aid in the exporting, transporting, selling, receiving, acquiring, or purchasing of fish, in violation of Title 16, United States Code, Sections 3372 and 3373, including but not limited to, the following.

A. A 2007 Honda Pilot bearing Colorado License Plate # 420 OIT, and VIN# 2HKYF18477H502239.

B. A 1996 Subaru Outback Legacy Wagon bearing Colorado License Plate # 231 VBZ, and VIN # 4S3BG48553T6370825.

3. In the event that any property used in any of the offense alleged in Count Two, or any property traceable to such property, as a result of any act or omission of the Defendants ARKADIY LVOVSKIY and DMITRI ELITCHEV:

- A. Cannot be located upon the exercise of due diligence;
- B. Has been transferred or sold to, or deposited with a third party;
- C. Has been placed beyond the jurisdiction of the court;
- D. Has been substantially diminished in value; or
- E. Has been co-mingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the Defendants ARKADIY LVOVSKIY and DMITRI ELITCHEV up to the value of the above property.

**FORFEITURE ALLEGATION**  
**16 U.S.C. § 3374(a)**

1. Upon conviction of the offense alleged in Count Three Defendants ARKADIY LVOVSKIY, DMITRI ELITCHEV, ARTOUR MAGDESSIAN, and FELIX BARAVIK shall forfeit to the United States pursuant to 16 U.S.C. §3374(a)(1) approximately sixteen paddlefish, including all of the eggs from those paddlefish.

2. Upon conviction of the offense alleged in Count Three, Defendants ARKADIY LVOVSKIY and DMITRI ELITCHEV shall forfeit to the United States pursuant to 16 U.S.C. § 3374(a)(2), all vessels, vehicles, and other equipment used to aid in the exporting, transporting,

selling, receiving, acquiring, or purchasing of fish, in violation of Title 16, United States Code, Sections 3372 and 3373, including but not limited to, the following.

A. A 2007 Honda Pilot bearing Colorado License Plate # 420 OIT, and VIN# 2HKYF18477H502239.

B. A 1996 Subaru Outback Legacy Wagon bearing Colorado License Plate # 231 VBZ, and VIN # 4S3BG48553T6370825.

3. In the event that any property used in any of the offense alleged in Count Three, or any property traceable to such property, as a result of any act or omission of the Defendants ARKADIY LVOVSKIY, DMITRI ELITCHEV, ARTOUR MAGDESSIAN, and FELIX BARAVIK:

- A. Cannot be located upon the exercise of due diligence;
- B Has been transferred or sold to, or deposited with a third party;
- C. Has been placed beyond the jurisdiction of the court;
- D. Has been substantially diminished in value; or
- E. Has been co-mingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the Defendants ARKADIY LVOVSKIY, DMITRI ELITCHEV, ARTOUR MAGDESSIAN, and FELIX BARAVIK up to the value of the above property.

A TRUE BILL

/s/  
FOREPERSON OF THE GRAND JURY

/s/ Lawrence E. Miller  
LAWRENCE E. MILLER  
ASSISTANT UNITED STATES ATTORNEY  
WESTERN DISTRICT OF MISSOURI

/s/ James B. Nelson & Adam C. Cullman  
JAMES B. NELSON  
ADAM C. CULLMAN  
TRIAL ATTORNEYS  
U.S. DEPARTMENT OF JUSTICE

02/26/2013  
Dated